EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations consolidate with amendments the Hill Farming (Cottages) (Northern Ireland) Regulations, 1948, and the Hill Farming (Cottages) (Northern Ireland) Amendment Regulations, 1950. The principal changes are:—

(1) The conditions applicable to the occupation of a grant-aided cottage no longer require that it shall be occupied only by the owner or a tenant. As an alternative, it may now be occupied by a member of the agricultural population otherwise than under a tenancy.

(2) If the cottage is occupied (otherwise than by a tenant) in pursuance of a contract of service, another new condition requires the employer to afford a minimum period of free occupation to the employee (or his dependants) in certain circumstances.

(3) If the grant was made under an improvement scheme approved after the commencement of these regulations, the owner may not occupy the cottage unless he occupies it in connection with a farm and himself carries on the farming there.

(4) The penalty for breaking a condition is reduced from the full amount of the improvement grant to a portion thereof proportionate to the unexpired portion of the period of twenty years for which the conditions are applicable.

(5) Provision is made for excusing a breach of condition where the breach is capable of being remedied or was not due to the act, default or connivance of the owner.

(6) If an improvement grant is made after the commencement of these regulations to a person who is not the owner of the cottage but is the lessee, then, so long as the lease subsists, he instead of the owner is liable on a breach of conditions.

All these changes (except the third) are made by virtue of the Hill Farming Act, 1954, which amends the provisions of Section 10 of the Hill Farming Act, 1946, under which the regulations are made.

The regulations come into operation on the 26th May, 1954, being the date on which the Hill Farming Act, 1954, comes into operation.

1954 No. 672 (S. 72)

The Hill Farming (Cottages) (Scotland) Regulations, 1954

Made - - - -	*20th May*, 1954
Laid before Parliament	*25th May*, 1954
Coming into Operation	*26th May*, 1954

In exercise of the powers conferred on me by section 10 of the Hill Farming Act, 1946(**a**), as amended by section 1 of the Hill Farming Act, 1954(**b**), of the powers conferred on me by section 2 of the last mentioned Act, and of all other powers enabling me in that behalf, I hereby make the following regulations:—

(**a**) 9 & 10 Geo. 6. c. 73. (**b**) 2 & 3 Eliz. 2. c. 23.

Short title and commencement

1. These regulations may be cited as the Hill Farming (Cottages) (Scotland) Regulations, 1954, and shall come into operation on the 26th day of May, 1954.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them—

"Improvement grant" means a grant in respect of the cost of work done in accordance with an approved livestock rearing land improvement scheme made under the Hill Farming and Livestock Rearing Acts, 1946 to 1954(**a**);

"owner" in relation to a cottage means the person for the time being entitled to receive or who would, if the cottage were let, be entitled to receive, the rent of the cottage; provided that in any case where, after the commencement of these regulations, sums on account of an improvement grant in respect of a cottage are paid to a person who is the tenant of the farm to which the cottage is attached or to be attached, then so long as that tenancy subsists such person or his successor in the tenancy, shall be deemed to be the owner of the cottage;

"tenant", for the purpose of this regulation, has the like meaning as in the Agricultural Holdings (Scotland) Act, 1949(**b**), and "tenancy" shall be construed accordingly.

(2) The Interpretation Act, 1889(**c**) applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Conditions of grant

3. Where an improvement grant has been made, whether before or after the commencement of the regulations, in respect of cost of work done for the erection, improvement or reconditioning of a cottage, the following conditions with respect to the occupation and maintenance thereof shall, subject as hereinafter provided, apply to the cottage—

(i) in a case where the grant was made after the commencement of these regulations, for a period of twenty years from the date on which it first becomes fit for occupation after the completion of the work; and

(ii) in a case where the grant was made before such commencement, for such part of the period aforesaid as falls after the commencement of these regulations:

(*a*) The cottage shall be so maintained as to be in all respects fit for human habitation.

(*b*) Subject to the provisions of paragraph (*c*) of this regulation, the cottage shall not be occupied otherwise than—

(i) by a person who is engaged in agriculture, or

(ii) by a person of substantially the same economic condition as an agricultural worker whose occupancy is approved by the Secretary of State, or

(iii) in a case where the improvement grant in respect of a cottage was made under an improvement scheme approved by the Secretary of State before the commencement of these regulations by the owner of the cottage.

(**a**) 9 & 10 Geo. 6. c. 73; 14 & 15 Geo. 6. c. 18; 2 & 3 Eliz. 2. c. 23.
(**b**) 12, 13 & 14 Geo. 6. c. 75. (**c**) 52 & 53 Vict. c. 63.

(*c*) In the case of a cottage which is for the time being occupied in pursuance of a contract of service by a person who is not a tenant of the cottage, if the contract is determined—

(i) by less than four weeks' notice given by the employer,

(ii) by dismissal of the employee without notice, or

(iii) by the death of either party,

the employer or his personal representative shall permit the employee (or, in the case of his death, any person residing with him at his death) to continue to occupy the cottage free of charge from the determination of the contract until the expiration of a period of four weeks, beginning with the date on which the notice is given, or, if the contract is determined otherwise than by notice, with the date on which it is determined.

(*d*) The owner of the cottage shall from time to time, on being required so to do by the Secretary of State, certify that the conditions specified in this regulation are being observed with respect to the cottage.

Registration of conditions

4. The notice specifying the conditions which apply to a cottage by virtue of these regulations and the notice stating that the conditions no longer apply which, in accordance with the provisions of subsection (3) of section 2 of the Hill Farming Act, 1954, are required to be recorded in the appropriate Register of Sasines, shall be in the forms set out in the First and Second Schedules to these regulations respectively, with any necessary modifications or in forms to the like effect.

Breach of conditions

5.—(1) In the event of a breach of any of the conditions specified in regulation 3 hereof during the period during which they are required by that regulation to be observed with respect to a cottage, the following provisions shall have effect:—

(*a*) the appropriate proportion of sums paid (whether before or after the breach) on account of the grant in respect of the cottage, together with simple interest thereon at the specified rate, shall, on being demanded by the Secretary of State, forthwith become payable to him by the owner for the time being of the cottage ; and

(*b*) any sums which, apart from the breach, would be payable on account of the grant shall be withheld by the Secretary of State ;

Provided that—

(i) if it appears to the Secretary of State that the breach is capable of being remedied he may direct that the operation of the foregoing provisions of this regulation shall, in relation to the breach, be suspended for such period as he may allow for enabling the breach to be remedied, and if the breach is remedied to his satisfaction within that period he may direct that the said provisions shall not have effect in relation to the breach ; and

(ii) if it appears to the Secretary of State that the breach was not due to any act, default or connivance on the part of the person from whom any sums would be recoverable hereunder, he may direct that the said provisions shall not have effect in relation to the breach.

(2) In this regulation the expression " appropriate proportion " in relation to a sum means a part thereof proportionate to the extent to which the period of twenty years specified in regulation 3 hereof remains unexpired at the date of the occurrence of the breach of conditions, and the expression " specified

rate", in relation to interest, means, in a case where the grant was made under an improvement scheme approved before the 1st day of August, 1950, the rate of three per centum per annum and, in any other case, the rate of three and one half per centum per annum.

(3) Upon satisfaction of a liability of an owner of a cottage to make payment under paragraph (*a*) of this regulation to the Secretary of State, the conditions specified in regulation 3 hereof shall cease to apply to the cottage.

Repayment of grant

6. The owner for the time being of a cottage in respect of which an improvement grant has been made may at any time during the period during which the conditions specified in regulation 3 hereof apply to the cottage, pay to the Secretary of State the like amount as would become payable to him under paragraph (*a*) of regulation 5 hereof in the event of a breach at that time of any of those conditions, and on the making of the payment those conditions shall cease to apply.

Application and revocation

7.—(1) These regulations shall apply to all cottages in respect of which improvement grants have been made, whether made before or after the date on which the regulations come into force.

(2) The Hill Farming (Cottages) (Scotland) Regulations, 1948(**a**), as amended by the Hill Farming (Cottages) (Scotland) Amendment Regulations, 1950(**b**), are hereby revoked, without prejudice however to their operation in relation to a breach occurring before the commencement of these regulations of any of the conditions applied to a cottage by the regulations so revoked.

Dated this 20th day of May, 1954.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

FIRST SCHEDULE

Form of Notice of Conditions of Improvement Grant

Hill Farming and Livestock Rearing Acts, 1946 to 1954

Whereas the Secretary of State for Scotland has made an improvement grant of to under the Hill Farming and Livestock Rearing Acts, 1946 to 1954, in respect of the cottage after described, namely .

And Whereas by virtue of the Hill Farming (Cottages) (Scotland) Regulations, 1954 and subject as therein provided, the conditions after specified apply to the said cottage for the period from the day of to the day of and the Secretary of State is required under subsection (3) of section 2 of the Hill Farming Act, 1954 to cause a notice specifying the said conditions to be recorded in the appropriate Register of Sasines:

Take Notice, therefore, that the following conditions apply to the said cottage, namely:

(*a*) The cottage shall be so maintained as to be in all respects fit for human habitation.

(*b*) Subject as aftermentioned, the cottage shall not be occupied otherwise than by—

(i) a person who is engaged in agriculture, or

(ii) a person of substantially the same economic condition as an agricultural worker whose occupancy is approved by the Secretary of State, [or

(iii) the owner thereof, as defined in the said Regulations.]

(**a**) S.I. 1948/459 (Rev. I, p. 622: 1948 I, p. 98). (**b**) S.I. 1950/1175 (1950 I, p. 122).

(*c*) In the event of the cottage being occupied in pursuance of a contract of service by a person who is not a tenant of the cottage, if the contract is determined—

(i) by less than four weeks' notice given by the employer,

(ii) by dismissal of the employee without notice, or

(iii) by the death of either party,

the employer or his personal representative shall permit the employee (or, in the case of his death, any person residing with him at his death) to continue to occupy the cottage free of charge from the determination of the contract until the expiration of a period of four weeks beginning with the date on which the notice is given or, if the contract is determined otherwise than by notice, with the date on which it is determined.

(*d*) The owner of the cottage (that is to say, the owner as defined in the said Regulations) shall from time to time, on being required so to do by the Secretary of State, certify that the conditions specified in this notice are being observed with respect to the cottage.

Given under the Seal of the Secretary of State for Scotland this day of .

(Signed).....

SECOND SCHEDULE

FORM OF NOTICE OF CESSER OF CONDITIONS OF IMPROVEMENT GRANT

Hill Farming and Livestock Rearing Acts, 1946 *to* 1954

WHEREAS the Secretary of State for Scotland made an improvement grant of to under the Hill Farming and Livestock Rearing Acts, 1946 to 1951, in respect of the cottage after described, namely .

AND WHEREAS a Notice dated the day of specifying the conditions which applied to the said cottage by virtue of the Hill Farming (Cottages) (Scotland) Regulations, 1954 was recorded in the Division of the General Register of Sasines for the County of on the day of .

AND WHEREAS the said conditions ceased to apply to the said cottage as from the day of , and the Secretary of State is required under subsection (3) of section 2 of the Hill Farming Act, 1954 to cause this notice to be recorded in the appropriate Register of Sasines:

TAKE NOTICE, therefore, that the said conditions no longer apply to the said cottage.

Given under the Seal of the Secretary of State for Scotland this day of .

(Signed).....

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations give effect to the provisions of the Hill Farming Act, 1954, and supersede the Hill Farming (Cottages) (Scotland) Regulations, 1948, as amended by the Hill Farming (Cottages) (Scotland) Amendment Regulations, 1950, which are revoked. The Regulations prescribe conditions as to the occupation and maintenance of cottages grant-aided under the Hill Farming and Livestock Rearing Acts, 1946 to 1954. They also provide for registration of the conditions in the Register of Sasines, for recovery of grant in the event of a breach of conditions and for voluntary repayment of grant.